

VIOLETA CABATBAT LIM, LIM BIAK CHIAO AND CALASIAO BIJON FACTORY, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT, CONSORCIA FRIANEZA GOLEA, MARIA FRIANEZA VERGARA, BENEDICTA FRIAN...*G.R. No. 69679. October 18, 1988*

Ponente: GRIÑO-AQUINO, J.

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This case involves a contest over the estate of the late Dra. Esperanza Cabatbat wherein the protagonists are her sisters and the children of her deceased brothers on one hand, and the petitioner Violeta Cabatbat Lim who claims to be her only child.

Petitioners Violeta Cabatbat Lim, her husband Lim Biak Chiao, and the Calasiao Bijon Factory assail the decision dated October 25, 1984 of the Intermediate Appellate Court, now Court of Appeals (AC-G.R. No. CV-67055), which affirmed the trial court's decision finding that petitioner Violeta Cabatbat Lim is not the offspring, hence, not a legal heir of the late Esperanza Cabatbat.

The private respondents, sisters of the late Esperanza Frianeza-Cabatbat, filed a complaint in the Court of First Instance of Pangasinan (Civil Case No. D-3841), praying for the partition of the estate of Esperanza Frianeza Cabatbat, who died without issue on April 23, 1977. Part of her estate was her interest in the business partnership known as Calasiao Bijon Factory, now in the possession of Violeta Cabatbat Lim who claims to be the child of the spouses Esperanza Frianeza and Proceso Cabatbat.

Esperanza Frianeza - Cabatbat was survived by her husband, Proceso Cabatbat, her sisters, Consorcía, María, Benedicta, Bonifacia, all surnamed Frianeza and the children of her deceased brothers Daniel and Domingo.

In their complaint, the private respondents alleged that Violeta Cabatbat Lim is not a child of Esperanza, but was only a ward (ampon) of the spouses Esperanza and Proceso Cabatbat who sheltered and supported her from childhood, without benefit of formal adoption proceedings.

Private respondents' evidence on the non-filiation of Violeta to Esperanza Cabatbat were: 1) the absence of any record that Esperanza Cabatbat was admitted in the hospital where Violeta was born and that she gave birth to Violeta on the day the latter was born; 2) the absence of the birth certificate of Violeta Cabatbat in the files of certificates of live births of the Pangasinan Provincial Hospital for the years 1947 and 1948, when Violeta was supposedly born; 3) certification dated March 9, 1977, of the Civil Registry coordinator Eugenio Venal of the Office of the Civil Registrar General, that his office has no birth record of Violeta Cabatbat alleged to have been born on May 26, 1948 or 1949 in Calasiao, Pangasinan; 4) certification dated June 16, 1977 of Romeo Gabriana, Principal II, that when Violeta studied in the Calasiao Pilot Central School, Proceso Cabatbat and Esperanza Cabatbat were listed as her guardians only, not as her parents; 5) testimony of Amparo Reside that she was in the Pangasinan Provincial Hospital on May 21, 1948 to watch a cousin who delivered a child there and that she

became acquainted with a patient named Benita Lastimosa who gave birth on May 26, 1948 to a baby girl who grew up to be known as Violeta Cabatbat.

Pitted against the evidence of the plaintiffs are the evidence of herein petitioners consisting of: 1) Violeta Cabatbat's birth record which was filed on June 15, 1948 showing that she was born on May 26, 1948 at the Pangasinan Provincial Hospital and that she is a legitimate child of the spouses Proceso and Esperanza Cabatbat; 2) testimony of Proceso Cabatbat that Violeta is his child with the deceased Esperanza Frianeza; 3) testimony of Benita Lastimosa denying that she delivered a child in the Pangasinan Provincial Hospital and that Violeta Cabatbat Lim is that child; 4) the marriage contract of Violeta and Lim Biak Chiao where Esperanza appeared as the mother of the bride; 5) Deed of Sale dated May 14, 1960, wherein the vendee Violeta Cabatbat, then a minor, was represented and assisted by her "mother," Dra. Esperanza Cabatbat; and 6) another Deed of Absolute Sale dated April 21, 1961, wherein Violeta Cabatbat was assisted and represented by her "father," Proceso Cabatbat.

Upon the evidence, the trial court held on August 10, 1979 that Violeta Cabatbat is not a child by nature of the spouses Esperanza and Proceso Cabatbat and that hence, she is not a legal heir of the deceased Esperanza Cabatbat. The dispositive portion of the trial court's decision reads:

"WHEREFORE, judgment is hereby rendered as follows:

"(1) Finding that defendant VIOLETA CABATBAT LIM is not a child by nature of the spouses, decedent Esperanza Frianeza and defendant Proceso Cabatbat, and not a compulsory heir of the said decedent;

"(2) Declaring that the heirs of the decedent are her surviving husband, defendant Proceso Cabatbat and her sisters, plaintiffs CONSORCIA, MARIA, BENEDICTA alias JOVITA, and BONIFACIA alias ANASTACIA, all surnamed FRIANEZA, her brothers deceased DANIEL FRIANEZA represented by his surviving spouses, Adela Vda. de Frianeza, and their children, Darlene, Daniel, Jr., Dussel and Daisy Glen, all surnamed FRIANEZA, and deceased DOMINGO FRIANEZA, represented by his surviving spouse Desideria Q. Vda. de Frianeza and their children, Francisco, Dona, Vilma and Decideria, all surnamed FRIANEZA;

"(3) Finding that the estate left by the decedent are the thirty real properties enumerated and described at pages 13 to 19 supra and an equity in the Calasiao Bijon Factory in the sum of P37,961.69 of which P13,221.69 remains after advances obtained by the deceased during her lifetime and lawful deductions made after her death;

"(4) That of the real properties adverted to above, three-fourths (3/4) pro-indiviso is the share of defendant Proceso Cabatbat, as the surviving spouse, one-half (1/2) as his share of the conjugal estate and one-half (1/2) of the remaining one-half as share as heir from his wife (decedent's) estate, while the remaining one-half (1/2) of the other half is the group share of the heirs of the brothers and sisters of his wife and of the children of the latter if deceased, whose names are already enumerated hereinbefore in the following proportions: one-sixth (1/6) each pro-indiviso to Consorcias, Maria, Benedicta alias Jovita, and Bonifacia alias Anastacia; one-sixth (1/6) to Adela B. Vda. de Frianeza, Darlene, Daniel, Jr., Dussel and Daisy Glen, as a group in representation of deceased brother DANIEL FRIANEZA, and one-sixth (1/6) to Decideria Q. Vda. de Frianeza, Francisco, Dona, Vilma and Decideria as a group in representation of deceased brother DOMINGO FRIANEZA;

"(5) That of the balance of the equity of the deceased in the CALASIAO BIJON FACTORY in the sum of P13,221.69, three-fourths (3/4) or P9,916.29 is the share of Proceso Cabatbat as surviving spouse and as heir of his deceased wife, and the remaining one-fourth (1/4) to the plaintiffs under the sharing already stated in the preceding paragraph; (a) but because defendant Proceso Cabatbat has overdrawn his share he is ordered to return to the estate the sum of P796.34 by depositing the same with the Clerk of Court; and (b) defendant Violeta Cabatbat Lim, not being an heir, is ordered to return to the estate the sum of P2,931.13 half of what she and her co-defendant Proceso Cabatbat withdrew from the equity of the deceased under Exhibit 29, receipt dated April 30, 1977;

"(6) Ordering jointly defendants Proceso Cabatbat and Violeta Cabatbat Lim to pay attorney's fees in the sum of P5,000.00, the sum of P4,000.00 from defendant Proceso Cabatbat and P1,000.00 from defendant Violeta Cabatbat Lim, and litigation expenses in the sum of P1,000.00 from defendant Proceso Cabatbat and P200.00 from defendant Violeta Cabatbat Lim, to the plaintiffs, and to pay the costs.

"SO ORDERED." (pp. 236-239, Record on Appeal.)

Petitioners appealed to the Intermediate Appellate Court which affirmed the decision of the trial court on October 25, 1984.

A motion for reconsideration filed by the petitioners was denied by the Intermediate Appellate Court.

Petitioners have elevated the decision to Us for review on certiorari, alleging that the Intermediate Appellate Court erred:

- In finding that petitioner is not the child of Prospero and Esperanza Cabatbat;
- In ignoring the provisions of Section 22 of Rule 132, Rules of Court;
- In not considering the provision of Article 263 of the New Civil Code;
- In disregarding Exhibits 8, 9, 10, and 11 of petitioner Violeta Cabatbat Lim.

Petitioners' first and fourth assignments of error raise factual issues. The finding of the trial court and the Court of Appeals that Violeta Cabatbat was not born of Esperanza Cabatbat is a factual finding based on the evidence presented at the trial, hence, it is conclusive upon Us. Well entrenched is the rule that "factual findings of the trial court and the Court of Appeals are entitled to great respect" (Vda. de Roxas vs. IAC, 143 SCRA 77; Republic vs. IAC, 144 SCRA 705).

Section 22, Rule 132 of the Rules of Court which provides that: "Where a private writing is more than thirty years old, is produced from a custody in which it would naturally be found if genuine, and is unblemished by any alterations or circumstances of suspicion, no other evidence of its execution and authenticity need be given" does not apply to petitioners' Exhibit "5," the supposed birth registry record of defendant Violeta Cabatbat showing that she was born on May 26, 1948, at the Pangasinan Provincial Hospital in Dagupan City, and that her father and mother are Proceso Cabatbat and Esperanza Frianeza, respectively. In rejecting that document, the trial court pointedly observed:

"This is very strange and odd because the Registry Book of admission of the hospital does not show that Esperanza Frianeza was ever a patient on May 26, 1948. Indeed, Esperanza Frianeza was never admitted in the hospital as an obstetrics case before or after May 26, 1948, that is from December 1, 1947 to June 15, 1948 (Stipulation of Facts, Pre-Trial Order of May 23, 1977, Record on Appeal, p. 117).

"On May 26, 1948, the day defendant Violeta Cabatbat was alleged to have been delivered by Esperanza Frianeza in the Pangasinan Provincial Hospital, the records of the hospital show that only one woman by the name of Benita Lastimosa of Tagudin, Ilocos Sur, not Esperanza Frianeza, gave birth to an illegitimate child who was named by her mother Benita Lastimosa as Baby Girl Lastimosa (Exhibit S, Plaintiffs' Folder of Exhibits, p. 39, Record on Appeal, pp. 117-118). Furthermore, the record of birth certificates of Pangasinan Provincial Hospital for the years 1947 and 1948 does not carry the birth certificate of defendant Violeta Cabatbat and the only birth certificate in the file of birth certificates of the hospital for May 26, 1948 is that of Baby Girl Lastimosa whose mother's name is Benita Lastimosa." (pp. 3-4, CA Decision, pp. 13-14, Record on Appeal.)

Furthermore, the absence of a record of the birth of petitioner Violeta Cabatbat in the Office of the Civil Registrar

General, puts a cloud on the genuineness of her Exhibit 5.

Petitioners' recourse to Article 263 of the New Civil Code is not well-taken. This legal provision refers to an action to impugn legitimacy. It is inapplicable to this case because this is not an action to impugn the legitimacy of a child, but an action of the private respondents to claim their inheritance as legal heirs of their childless deceased aunt. They do not claim that petitioner Violeta Cabatbat Lim is an illegitimate child of the deceased, but that she is not the decedent's child at all. Being neither a legally adopted child, nor an acknowledged natural child, nor a child by legal fiction of Esperanza Cabatbat, Violeta is not a legal heir of the deceased.

WHEREFORE, the petition is denied for lack of merit. The appealed decision is affirmed, but with modification of paragraphs 2 and 4 of the dispositive portion thereof, by excluding the widows Adela B. Vda de Frianeza and Decideria Q. Vda. de Frianeza, who are not legal heirs of Esperanza Frianeza Cabatbat from participating with their children and the surviving sisters of the deceased in the one-fourth share of the estate pertaining to the latter under Article 1001 of the Civil Code.

SO ORDERED.

Narvasa, Cruz, Gancayco, and Medialdea, JJ., concur.

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